

Per Curiam.

^ 384 U. S.

WESTBROOK *v.* ARIZONA.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ARIZONA.

No. 1250, Misc. Decided May 2, 1966.

The question whether in the circumstances of this case a hearing on the accused's competence to stand trial was sufficient to determine his competence to waive his right to the assistance of counsel, or whether the trial judge had a further protecting duty, should be re-examined in light of *Pate v. Robinson*, 383 U. S. 375.

Certiorari granted; 99 Ariz. 30, 406 P. 2d 388, vacated and remanded.

W. Edward Morgan for petitioner.

Darrell F. Smith, Attorney General of Arizona, and *Paul G. Rosenblatt*, Assistant Attorney General, for respondent.

PER CURIAM.

The motion for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. Although petitioner received a hearing on the issue of his competence to stand trial, there appears to have been no hearing or inquiry into the issue of his competence to waive his constitutional right to the assistance of counsel and proceed, as he did, to conduct his own defense. "The constitutional right of an accused to be represented by counsel invokes, of itself, the protection of a trial court, in which the accused—whose life or liberty is at stake—is without counsel. This protecting duty imposes the serious and weighty responsibility upon the trial judge of determining whether there is an intelligent and competent waiver by the accused." *Johnson v. Zerbst*, 304 U. S. 458, 465; *Carnley v. Cochran*, 369 U. S. 506.

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From an independent examination of the record, we conclude that the question whether this "protecting duty" was fulfilled should be re-examined in light of our decision this Term in *Pate v. Robinson*, 383 U. S. 375. Accordingly, the judgment of the Supreme Court of Arizona is vacated and the case is remanded to that court for proceedings not inconsistent herewith.

It is so ordered.